

**§ 45-70. Priority of security instrument.**

(a) Subject to subsections (a1), (c), and (d) of this section, any security instrument that conforms to the requirements of this Article shall, from the time and date of registration thereof, have the same priority to the extent of all future advances and future obligations secured by it, and all interest accruing thereon, as if all the advances had been made, all the obligations incurred, and all the interest accrued at the time the security instrument was registered.

(a1) Subject to subsections (c) and (d) of this section, if at any time the aggregate outstanding principal balance of the obligation or obligations secured by a security instrument that conforms to the requirements of this Article exceeds the maximum principal amount that may be secured by the security instrument at any one time, then, unless the security instrument provides otherwise, the amount in excess and the interest accrued on the amount in excess shall be secured by the security instrument, but (i) the amount in excess and the interest accrued on the amount in excess shall not be afforded the priority provided in subsection (a) of this section and (ii) the priority of the lien of the security instrument with respect to the amount in excess and the interest accrued on the amount in excess shall be determined by other applicable law.

(b) Repealed by Session Laws 1989, c. 496, s. 3.

(c) All payments made, sums advanced, and expenses incurred by the secured creditor (i) for insurance, taxes, and assessments, (ii) to protect the secured creditor's interest under the security instrument, or (iii) to preserve and protect the value or condition of the real property encumbered by the security instrument shall be secured by the security instrument and shall have the same priority as if they had been paid, advanced, or incurred at the time the security instrument was registered. The provisions of G.S. 45-68 shall not be applicable to such payments, advances, or expenses, nor shall accrued interest or such payments, advances, or expenses be considered in computing the principal amount that is secured by the security instrument at any one time.

(d) Notwithstanding any other provision of this Article, any security instrument hereafter executed which secures an obligation or obligations of an electric or telephone membership corporation incorporated or domesticated in North Carolina to the United States of America or any of its agencies, or to any other financing institution, or of an electric or gas utility operating in North Carolina, shall from the time and date of registration of said security instrument have the same priority to the extent of (i) all future obligations incurred by the membership corporation or utility to any mortgagee or beneficiary named in the security instrument, together with interest thereon, (ii) all future advances secured by it, together with interest thereon, and (iii) all payments made, sums advanced, and expenses incurred by the secured creditor of the types described in subsection (c) of this section, as if they all had been accrued, paid, made, advanced, and incurred at the time of the registration of the security instrument, regardless of whether the security instrument meets the requirements of G.S. 45-68. (1969, c. 736, s. 1; 1971, c. 565; 1979, c. 594; 1989, c. 496, s. 3; 2009-197, s. 4; 2011-312, s. 18.)